No. 04-867

Supreme Court, U.S.
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In The
Supreme Court of the United States

ISIDORO RODRIGUEZ, ESQ.,

Petitioner,

v.

GUY VANDER JAGT, ESQ., *et al.*,

Respondents.

ON PETITION FOR WRIT OF CERTIORARI
TO THE SUPREME COURT OF VIRGINIA

BRIEF IN OPPOSITION OF R. HARRISON PLEDGER, JR. AND PLEDGER & FEORD, P.L.C. TO PETITION FOR WRIT OF CERTIORARI WITH APPENDIX

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CORPORATE DISCLOSURE STATEMENT

Pursuant to Rule 29.6, Respondent Pledger & Feord, P.L.C., states:

a) It has no parent corporations; and

b) No publicly held company owns any of its stock

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BRIEF IN OPPOSITION TO PETITION FOR CERTIORARI

Respondents R. Harrison Pledger and Pledger & Feord, P.L.C. (collectively "Pledger"), by counsel, respectfully submit that Petitioner Isidoro Rodriguez' ("Rodriguez") Petition for Writ of Certiorari should be denied, and that the Court should decline to review this case.

OPINIONS BELOW

The November 5, 2004 Order of the Supreme Court of Virginia denying Rodriguez' motion to defer issuance of the mandate is set forth as Appendix 1a hereto. The August 13, 2004 Order of the Supreme Court of Virginia refusing Rodriguez' petition for appeal is set forth as Appendix 2a hereto. Likewise, the January 23, 2004 Order of the Circuit Court of Fairfax County, Virginia sustaining Pledger's demurrer and dismissing all claims with prejudice is set forth as Appendix 3a hereto. The October 1, 2004 Order of the Supreme Court of Virginia denying Rodriguez' petition for rehearing is set forth as Appendix 5a hereto.

In addition to the orders of the Supreme Court of Virginia and the Circuit Court of Fairfax County, Virginia, there have been a number of other orders and opinions from previous lawsuits brought by Rodriguez arising out of the same underlying events. Pertinent orders and opinions from those actions are set forth as Appendices 6a, 7a, 9a and 10a hereto.

JURISDICTION

This case involves exclusively state law claims. The Supreme Court of Virginia had jurisdiction to review or decline to review, upon Rodriguez' Petition for Appeal, the decision of the Circuit Court of Fairfax County, Virginia's final order dismissing Rodriguez' claims. This case does not draw into question the validity of a federal or state law nor does it involve any title, right or privilege or immunity set up or claimed under the U.S. Constitution. This case does not involve a substantial federal question and is not reviewable pursuant to 28 U.S.C. § 1257(a) or the U.S. Constitution. The Petition for Writ of Certiorari should be denied.

STATEMENT OF THE UNDERLYING PROCEEDINGS AND THIS CASE

Rodriguez has unsuccessfully attempted to pursue his state law claims in Virginia courts in at least three separate lawsuits. Consideration of the Supreme Court of Virginia's denial of Rodriguez' Petition for Appeal from the Circuit Court for Fairfax County, Virginia's dismissal of Rodriguez' claims requires an appreciation of those underlying proceedings. Suffice it to say that Rodriguez' Statement of the Case misstates a multitude of facts and fails to address many critical facts concerning the underlying proceedings.

Indeed, before filing the instant case, Rodriguez filed at least two (2) Federal lawsuits in connection with his fee dispute with his former client, the SSA Entities. All of those prior lawsuits were dismissed for lack of jurisdiction and Rodriguez' attempts to pursue

those same claims through the Virginia state courts were also unsuccessful.

The SSA Entities were involved in litigation in Colombia, South America attempting to preserve their rights to a treasure trove that the Colombian government declared not to be subject to international law and treaties. The SSA Entities hired Rodriguez, an attorney, pursuant to a General Power of Attorney. Rodriguez was hired to assist with the ongoing litigation in Colombia against the Colombian government. The SSA Entities terminated their relationship with Rodriguez and revoked any and all Powers of Attorney by letter dated April 6, 2000. At the time of termination, the SSA Entities denied that it owed Rodriguez any further monies for his services. Rodriguez, on the other hand, claimed to be owed fees he alleges he earned representing SSA Entities under a contingent fee arrangement.

In September 2000, Rodriguez filed suit in U.S. District Court for the Eastern District of Virginia against the SSA Entities and Jack Harbeston (one of SSA's principals) to enforce his claimed attorneys' lien (Rodriguez claimed a lien against the proceeds of the treasure trove litigation). The SSA Entities and Harbeston hired attorney Pledger and his law firm to defend the case. Pledger filed a motion to dismiss the complaint. On December 21, 2000, Judge Cacheris dismissed the case, holding that the court did not have personal jurisdiction over any of the defendants. The U.S. Court of Appeals for the Fourth Circuit affirmed and the U.S. Supreme Court denied Rodriguez' Petition for a Writ of Certiorari. See, Rodriguez v.

Harbeston, U.S.D.C. (E.D.Va.), Civil Case No. 00-CV-1523-A, aff'd by the 4th Cir. 01-1884, cert den. 536 U.S. 924 (Mem); See also, Appendices 9a and 10a hereto.

In October 2002, despite the Federal courts' rulings, Rodriguez filed a second lawsuit in the U.S. District Court for the Eastern District of Virginia against HFP, Inc. and others. This time Rodriguez added a count for *quantum meruit* compensation and a count for conspiracy. Pledger, on behalf of his clients, again filed a motion to dismiss the claims. Judge Gerald Bruce Lee dismissed Rodriguez' lawsuit, again for lack of personal jurisdiction. The U.S. Court of Appeals for the Fourth Circuit affirmed the second dismissal of Rodriguez' claims and the U.S. Supreme Court denied Rodriguez' Petition for a Writ of Certiorari. See, Rodriguez v. HFP, Inc., U.S.D.C. (E.D.Va.), Civil Case No. 02-CV-1523-A, aff'd by the 4th Cir 03-1084, cert den. 124 S. Ct. 1603 (Mem); See also, Appendices 6a and 7a hereto.

Undeterred by the Federal courts' rulings that he cannot bring his claims in Virginia, Rodriguez filed his state law claims in the underlying action, *Rodriguez v. Vander Jagt et al.*, Circuit Court of Fairfax County, Virginia, At Law No. 215327. This time, Rodriguez added Pledger and Vander Jagt as defendants solely in a loosely-veiled attempt to try to prosecute his core case in Virginia. Rodriguez filed a five-count Motion for Judgment alleging claims for business conspiracy under Va. Code §§ 18.2-499 and -500, tortious interference with his asserted Virginia Attorney's Lien, common law conspiracy, intentional infliction of

emotional distress and punitive damages. These are all state law claims.

In his Motion for Judgment, Rodriguez made scandalous and false assertions that defendants used "political influence" with unidentified individuals in the federal government to ensure that Judge Cacheris dismissed the first federal case for lack of personal jurisdiction. Rodriguez had no factual basis whatsoever for his claims against Pledger and they were merely a contrivance to try to circumvent the prior Federal courts' rulings.

Pledger and Vander Jagt demurred to Rodriguez' Motion for Judgment noting that Rodriguez deliberately used the Virginia state courts to ignore and flout the unambiguous rulings of two U.S. District Court judges and two appellate panels from the U.S. Court of Appeals. Also, Rodriguez' pleading was so deficient as to fail to state any claim against Pledger and Vander Jagt. The demurrers were briefed and then argued on October 17, 2003 to the Honorable Robert W. Wooldridge, Jr. who entered an Order sustaining the demurrers as to all five counts, but granting leave to amend.

Rodriguez filed his Amended Motion for Judgment. Rodriguez' pleading now contained eight counts . . . the same five from the original pleading with additional counts for enforcement of a Virginia Ethics Opinion, enforcement of Attorney's Lien Va. Code § 54.1-3932, and imposition of *alter ego* or reverse *alter ego* doctrines. Once again, these are all state law claims.

Rodriguez' Amended Motion for Judgment suffered the same fatal deficiencies as his original pleading. Pledger and Vander Jagt filed demurrers that were briefed and then argued on January 23, 2004. Because Rodriguez failed to state a claim against Pledger and Vander Jagt, Judge Wooldridge sustained the demurrers and dismissed all eight counts with prejudice. See, Appendix 3a hereto.

Rodriguez noted his appeal and filed a Petition for Appeal with the Supreme Court of Virginia. The Supreme Court of Virginia denied the petition. See, Appendix 2a hereto. Rodriguez sought reconsideration of the denial of his petition. The Supreme Court of Virginia declined to reconsider its decision. See, Appendix 4a hereto. Rodriguez then sought a stay of the court's mandate and his request for a stay of the mandate was also denied. See, Appendix 1a hereto. Rodriguez now seeks review in this Court.

THE PETITION MISSTATES CRITICAL FACTS OF THIS CASE.

Rodriguez' Petition for Writ of Certiorari contains numerous misstatements of fact and law, including the following:

Page (i): The SSA Entities did not hire Rodriguez because of any affiliation he had with the Virginia State Bar or any other contacts with the Commonwealth of Virginia. Instead, the SSA Entities hired Rodriguez to represent their interest in litigation against the government of Colombia that was pending in Colombia, South America. Litigation ensued in

South America, not Virginia or any other jurisdiction or venue in the United States.

Rodriguez misstates the actions of Guy Vander Jagt in negotiating a settlement; there was no fraudulent transfer of the SSA Entities claims. Rodriguez further misstates the contents of a Virginia State Bar Ethics Opinion. By its own terms explicitly set forth in its concluding sentence, the Ethics Opinion is advisory only and not binding on any court or tribunal. The Ethics Opinion does not establish jurisdiction nor does it create a cause of action upon which Rodriguez can seek relief.

The Virginia courts have not engaged in any discriminatory conduct toward Rodriguez. On the contrary, they have given him ample opportunity to state his claims but he has failed to state any claim upon which relief can be granted because his claims against Pledger are spurious and not made in good faith.

Page 1: In response to the conclusory assertions in Footnote 2, Sea-Search Armada and Armada Company did not fraudulently dissolve nor were their assets secretly transferred to the SSA Entities.

Pages 2 - 3: This case involves exclusively state law claims. The question presented to the trial court was whether Rodriguez had met the pleading requirement for stating claims for business conspiracy under Va. Code §§ 18.2-499 and -500, tortious interference with his asserted Virginia Attorney's Lien,

common law conspiracy, intentional infliction of emotional distress, punitive damages, enforcement of a Virginia Ethics Opinion, enforcement of an attorney's lien pursuant to Va. Code § 54.1-3932, and imposition of *alter ego* or reverse *alter ego* doctrines to pierce a corporate veil. Rodriguez failed to meet the pleading requirements of the court and his claims were dismissed. On appeal, Rodriguez makes multiple, spurious allegations invoking the U.S. Constitution and its Amendments in a vain attempt to establish jurisdiction where there is none. The allegations are conclusory and meritless.

Page 4: The SSA Entities did not hire Rodriguez because of any affiliation he had with the Virginia State Bar or any other contacts with the Commonwealth of Virginia. He was hired because of his contacts in Colombia, South America. The SSA Entities did not need nor require Rodriguez to be supervised by the Virginia State Bar. Instead, Rodriguez was hired to represent his client's interests in litigation against the government of Colombia. Litigation ensued in South America, not Virginia or any other jurisdiction or venue in the United States.

Page 5: Rodriguez misconstrues the Virginia Ethics Opinion and the Virginia Code. The SSA Entities did not negotiate with Rodriguez based on any guidance from the Commonwealth of Virginia. The circumstances surrounding Rodriguez' termination are denied.

Page 6: Rodriguez states legal conclusions pertaining to an attorney's lien. As set forth in the

Statement of the Underlying Proceedings and This Case, Rodriguez filed two lawsuits in U.S. District Court for the Eastern District of Virginia against various persons and entities to collect his claimed fee. Respondents Pledger and his law firm represented the defendants in those cases and filed motions to dismiss for lack of personal jurisdiction. The motions were granted. There was nothing secret, surreptitious or illegal about Pledger's actions or his clients' actions. In November 2003, Rodriguez filed his spurious lawsuit adding Pledger as a defendant simply to try to have his claims against the SSA Entities heard in Virginia despite the Federal courts' rulings that jurisdiction is not proper in Virginia. As recognized by the lower court, Rodriguez's claims have no merit.

Page 7: While Rodriguez is subject to discipline by the Virginia State Bar, there is no jurisdiction over the SSA Entities in the Commonwealth of Virginia. The SSA Entities hired Rodriguez because of his law practice in the South American nation of Colombia and his claimed contacts and abilities with respect to handling matters pending in the nation of Colombia. SSA never agreed to jurisdiction in Virginia and never had sufficient contacts to be subject to jurisdiction in Virginia.

The subsequent lawsuit adding Vander Jagt and Pledger is a spurious pleading that was not filed in good faith. The claims are a fabrication and were filed by Rodriguez solely to try to circumvent the Federal courts' rulings that Virginia was not a proper jurisdiction for Rodriguez' claims against his former client the SSA Entities. As the Fairfax County Circuit

Court correctly ruled, Rodriguez failed to state any cognizable claim against Vander Jagt and Pledger. Therefore, his claims were dismissed with prejudice and he is not entitled to consideration by a jury on his meritless claims. The SSA Entities have filed bar complaints against Rodriguez.

Page 8: Rodriguez makes allegations pertaining to the Virginia State Bar investigation into his conduct. Respondent is not privy to the work product or findings of the Virginia State Bar and they were not made a part of the record before the Court and should not be considered as a part of the petition.

On January 23, 2004, the Circuit Court of Fairfax County, Virginia granted demurrers filed and argued by Pledger and Vander Jagt. The court based its ruling on all of the information provided to it by all of the parties which was set forth in extensive briefs and upon oral argument. The court dismissed the claims because Rodriguez had failed to state any cognizable claim against Pledger and Vander Jagt. The jurisdiction of the Virginia State Bar over Rodriguez does not translate into jurisdiction over the SSA Entities and that was addressed by the court in proceedings involving defendants other that Pledger and Vander Jagt.

Page 9: The Circuit Court of Fairfax County, Virginia carefully reviewed Rodriguez' claims against Pledger and Vander Jagt and dismissed the claims because Rodriguez had failed to state any cognizable claim. In Footnote 7, the allegations pertaining to motive and any mischief are

representative examples of the type of frivolous accusations made by Rodriguez and they are denied.

The Circuit Court of Fairfax County later considered briefs and oral argument by Rodriguez and the other defendants (not Pledger and Vander Jagt) and sustained their demurrers as well. In that case, there was a lack of jurisdiction and Rodriguez had failed to state any cognizable claim. Rodriguez appealed to the Supreme Court of Virginia which refused his petitions for appeal on the grounds that there was no reversible error in the rulings of the Circuit Court of Fairfax County.

Pages 11 - 18: Rodriguez incorrectly concludes that his governance by the rules of the Virginia State Bar somehow gives rise to causes of action and jurisdiction for those causes of action in the Commonwealth of Virginia. While Rodriguez is subject to discipline by the Virginia State Bar, jurisdiction over civil suits is not thereby established. Rodriguez has not been deprived of any privileges or immunities. Rodriguez is free to pursue his civil disputes against his former client in an appropriate jurisdiction and forum. Thus far, he has opted not to file his claims in an appropriate court.

Pages 19 - 21: Rodriguez incorrectly concludes that he has been deprived of a property right without due process. Rodriguez brought his claims in federal court in an incorrect jurisdiction. He appealed that ruling through the Court of Appeals for the Fourth Circuit up to this Court which denied a writ of certiorari. See, Appendices 9a and 10a hereto. He re-

filed essentially the same claims again in federal court which again ruled that jurisdiction was not appropriate in Virginia. He appealed that ruling through the Court of Appeals for the Fourth Circuit up to this Court which denied a writ of certiorari. See, Appendices 6a and 7a hereto. He then filed essentially the same claims in a Virginia state court which sustained a demurrer to the claims allowing leave to amend. Rodriguez amended the claims but still failed to state any claim against Pledger and his law firm. The claims were dismissed with prejudice. See, Appendix 3a hereto. The Supreme Court of Virginia denied Rodriguez' petition for appeal. See, Appendix 2a hereto. Rodriguez has not been deprived of any property right without due process. Rodriguez is free to pursue his civil disputes against his former client in an appropriate jurisdiction and forum. Thus far, he has opted not to file his claims in an appropriate court.

Pages 21 – 29: Rodriguez incorrectly concludes that he has been deprived of equal protection under the laws. There was nothing arbitrary, capricious or discriminatory about the rulings of the state courts. Rodriguez brought his claims in federal court in an incorrect jurisdiction. He appealed that ruling through the Court of Appeals for the Fourth Circuit up to this Court which denied a writ of certiorari. See, Appendices 9a and 10a hereto. He re-filed essentially the same claims again in federal court which again ruled that jurisdiction was not appropriate in Virginia. See, Appendices 6a and 7a hereto. He appealed that ruling through the Court of Appeals for the Fourth Circuit up to this Court which denied a writ of certiorari. He then filed essentially the

same claims in a Virginia state court which sustained a demurrer to the claims allowing leave to amend. Rodriguez amended the claims but still failed to state a claim against Pledger and his law firm. The claims were dismissed with prejudice. See, Appendix 3a hereto. The Supreme Court of Virginia denied Rodriguez' petition for appeal. See, Appendix 2a hereto. Rodriguez has not been deprived of equal protection under the laws. Rodriguez is free to pursue his civil disputes against his former client in an appropriate jurisdiction and forum. Thus far, he has opted not to file his claims in an appropriate court.

REASONS FOR DENYING THE WRIT

As demonstrated below, there is no compelling reason for this Court to grant a writ of certiorari in this case. The Circuit Court for Fairfax County, Virginia correctly sustained the demurrers and dismissed Rodriguez' claims with prejudice. The Supreme Court of Virginia correctly exercised its discretion in refusing Rodriguez' Petition for Appeal upon finding no reversible error. Neither decision conflicts with a decision by this Court. The case involves purely state law claims asserted by Rodriguez and his use of catchphrases throughout his appeals does not invoke the jurisdiction of this Court. The Supreme Court of Virginia has not decided an important federal question in conflict with any other state court of last resort or of a United States court of appeals. The Circuit Court of Fairfax County, Virginia has not decided an important question of federal law that has not been, but should be decided by this Court or that is in conflict with relevant decisions of this Court. In addition, Rodriguez is

attempting to raise new arguments on appeal, which (in any event) are misguided and unavailing.

I. This Case Involves State Law Claims -- the Lower Court Did Not Decide an Important Federal Question in Conflict With Any Other Court Nor Decide an Important Question of Federal Law That Should Be Decided by This Court or That Is in Conflict With Decisions of This Court.

As described in the Statement of the Underlying Proceedings and this Case, Rodriguez twice filed, in the U.S. District Court (E.D.Va.), state law claims against his former client, the SSA Entities. Both times, all of the claims were dismissed for lack of personal jurisdiction. Rodriguez appealed those rulings to the Court of Appeals for the Fourth Circuit which affirmed the district court rulings. Rodriguez twice petitioned this Court for a writ of certiorari and this Court denied a writ both times. See, Appendices 6a, 7a, 9a and 10a hereto.

Rodriguez then filed his state law claims in the underlying action in *Rodriguez v. Vander Jagt et al.*, Circuit Court of Fairfax County, Virginia, At Law No. 215327. He added Pledger and Vander Jagt as defendants. This was a blatant attempt to circumvent the federal courts' rulings that the claims were not properly brought in Virginia. In any event, all of the claims stated in the lawsuit are state law claims.

Rodriguez alleged business and common law conspiracy, tortious interference with his asserted lien, intentional infliction of emotional distress, punitive

damages, enforcement of a Virginia Ethics Opinion, enforcement of Va. Code § 54.1-3932, and imposition of *alter ego* or reverse *alter ego* doctrines. These are all state law claims.

Pledger demurred to all of the claims because Rodriguez' claims were meritless and his pleading was so deficient as to fail to state any claim against Pledger or his law firm. The Circuit Court of Fairfax County, Virginia agreed and dismissed with prejudice all of Rodriguez' claims against Pledger and his law firm.

The underlying claims are all state law claims. Not a single federal question was raised to or addressed by the court below. The court merely ruled that Rodriguez had failed to meet his burden of pleading any cognizable cause of action against Pledger and his law firm. Each of the underlying claims is described in the sections that follow.

Enforcement of Legal Ethics Opinion (Count 1) and Enforcement of Virginia Code § 54.1-3932 (Count 2)

Rodriguez' pleading contained no allegations of fact or conduct pertaining to Pledger on these two counts. Moreover, Virginia Legal Ethics Opinions do not give rise to independent, private causes of action. The Circuit Court was correct in sustaining the demurrer and dismissing the claims with prejudice.

Imposing Alter Ego or Reverse Alter Ego Doctrine (Count 3)

Rodriguez' pleading contained no allegations of fact or conduct pertaining to defendant Pledger other than an overly vague and conclusory allegation that Pledger had a "fiduciary duty" to Rodriguez. Pledger was the attorney for Rodriguez' litigation adversaries. There was never any privity of relation between Rodriguez and Pledger, nor was there any basis for implying a fiduciary relationship. Pledger, SSA's attorney, did not owe any duty to Rodriguez. See, e.g., Schatz v. Rosenberg, 943 F.2d 485, 492-494 (4th Cir. 1991)(attorney has no duty to disclose to a third party the misrepresentations of his client). There is no cause of action against Pledger based on the assertions of an *alter ego*. Therefore, the Circuit Court was correct in sustaining the demurrer and dismissing the claims with prejudice.

Business Conspiracy (Count 4) and Common Law Conspiracy (Count 6)

Rodriguez failed to meet his pleading obligations for any theory of conspiracy. For a business conspiracy, plaintiff must allege and prove (1) a combination of two or more persons for the purpose of willfully and maliciously injuring plaintiff in his business, and (2) resulting damage to plaintiff. Allen Realty Corp. v. Holbert, 227 Va. 441, 318 S.E.2d 592, 596 (1984). For a common law conspiracy, the plaintiff must allege and prove a combination of two or more persons, by some concerted action, to accomplish some criminal or unlawful purpose or to accomplish some

purpose not in itself criminal or unlawful by criminal or unlawful means. Hechler Chevrolet v. General Motors Corp., 230 Va. 396, 402, 337 S.E.2d 744 (1985). A single entity cannot conspire with itself. Saliba v. Exxon Corp., 865 F. Supp. 306 (W.D.Va. 1994). Moreover, a principal and an agent are not separate persons for purposes of a conspiracy action and, likewise, cannot conspire with each other. Charles E. Brauer Co. v. NationsBank, 251 Va. 28, 36, 466 S.E.2d 382, 387 (Va. 1996); see also, Ashco Int'l, Inc. v. Westmore Shopping Ctr. Assocs., 42 Va. Cir. 427, 433, 1997 Va. Cir. LEXIS 158, p 14. (1997). An attorney is the agent of the client and therefore cannot conspire with the client. Fox v. Deese, 234 Va. 412, 362 S.E.2d 699 (1987).

Rodriguez alleged that all of the defendants are agents and *alter egos* of one another. Rodriguez cannot defeat the intracorporate immunity doctrine that is apparent from his own pleading. Moreover, the conduct "must be directly aimed toward damaging the business, trade, reputation or profession: The injury must not be the result or secondary effect of an action taken for mere personal gain." Saliba, supra. Rodriguez did not allege that the conduct at issue was anything more than a by-product of actions taken by defendants for their own personal gain. Therefore, the Circuit Court was correct in sustaining the demurrer and dismissing the claims with prejudice.

Tortious Interference with Attorney's Lien (Count 5)

Rodriguez claims that the defendants interfered with his asserted attorney's lien. The alleged lien is derived from the at-will contract between Rodriguez and the SSA Entities. First, a principal and agent are not separate persons for purposes of a tortious interference action. Charles E. Brauer Co. and Ashco Int'l, Inc., supra. Pledger was an agent for the SSA Entities and acting within the scope of his agency when he provided legal services in defense of the lawsuits and appeals filed by Rodriguez. Thus, Pledger was legally incapable of interfering with the contracts of its principal SSA.

Second, whether Rodriguez has a valid expectancy is not settled and must be litigated in a proper jurisdiction against SSA. SSA terminated Rodriguez as counsel on April 6, 2000 and denies that it owes him any further monies.

Third, Pledger did not induce the alleged breach. The alleged breach, if any, occurred on April 6, 2000. Pledger was retained to defend the suit filed by Rodriguez six months after the alleged breach. The alleged breach had already occurred. Therefore, Pledger could not have induced the alleged breach.

Fourth, there was no intentional interference. Rodriguez fails to plead that Pledger gave legal advice to his clients for the intended purpose of interfering with any contract. See, e.g., Century-21 v. Elder, 239 Va. 637, 391 S.E.2d 296 (Va. 1990). Pledger provided

legal advice to his client in response to lawsuits filed by Rodriguez over disputed matters.

Fifth, there were no improper methods plead. Duggin v. Adams, 234 Va. 221, 226-227, 360 S.E.2d 832, 836 (Va. 1987); See also, Peace v. Conway, 246 Va. 278, 281, 435 S.E.2d 133, 135 (Va. 1993). Therefore, the Circuit Court was correct in sustaining the demurrer and dismissing the claims with prejudice.

Intentional Infliction of Emotional Distress (Count 7)

Rodriguez failed to allege: (1) conduct that is intentional or reckless; (2) conduct that is outrageous and intolerable; (3) a causal connection between the alleged wrongful conduct and emotional distress; and, (4) severe distress. Warner v. Buck Creek Nursery, Inc., 149 F. Supp. 2d 246, 264-265 (W.D.Va. 2001). The Court "must initially determine whether the facts alleged will support a finding of both outrageousness and severe emotional distress." Id. In evaluating "outrageousness", the Court must determine whether the defendant's alleged conduct "has been so outrageous in character, and so extreme in degree, as to go beyond all possible bounds of decency, and to be regarded as atrocious, and utterly intolerable in a civilized community." Id. Rodriguez's allegations, even if proven true, do not show conduct "so outrageous in character, and so extreme in degree, as to go beyond all possible bounds of decency." The Circuit Court was correct in sustaining the demurrer and dismissing the claims with prejudice.

Punitive Damages (Count 8)

Rodriguez's pleading was inadequate on all counts and there was no basis for punitive damages. Moreover, a proper use of process cannot support what amounts to a claim of abuse of process. Ross v. Peck Iron & Metal Co., 264 F.2d 262 (C.A.4 1959). The Circuit Court was correct in sustaining the demurrer and dismissing the claims with prejudice.

The eight (8) underlying claims are state law claims. Not a single federal question was raised to or addressed by the court below. The court simply ruled that Rodriguez had failed to meet his burden of pleading any cognizable cause of action against Pledger. The decisions of the Supreme Court of Virginia and Circuit Court of Fairfax County, Virginia in this case did not decide any important federal question in conflict with any other state court of last resort or U.S. court of appeals. Moreover, the decisions of the Supreme Court of Virginia and Circuit Court of Fairfax County, Virginia in this case did not decide an important question of federal law that has not been, but should be decided by this Court or that is in conflict with relevant decisions of this Court. This Court is therefore respectfully requested to deny the Petition for Writ of Certiorari.

II. Rodriguez Presents No Record Upon Which to Base His Spurious Claim That The Lower Court Violated Any of His Constitutional Rights When It Sustained Pledger's Demurrer and Dismissed the Claims With Prejudice.

Rodriguez' petition resembles his initial lawsuit and legal memoranda in that the pleadings are rambling, disorderly and virtually incomprehensible. It appears that the theme of Rodriguez' appeal is that because he disagrees with the rulings of the courts below, the rulings somehow violate his constitutional rights. There is no logical connection between the state causes of action Rodriguez attempted to plead in the lower court and his inflammatory allegations made on appeal and directed toward the lower court for dismissing his claims upon Pledger's demurrer.

As petitioner to this Court, Rodriguez is charged with the responsibility of providing a record upon which this Court can determine the validity of his position. Rodriguez fails to provide this Court with any record on which the Court could decide that the highest state court in Virginia and the lower state court denied him privileges and immunities, due process or equal protection under the laws of the United States. As is discussed in the prior section of this brief, the simple fact is that Rodriguez failed to state any cognizable claim against Pledger and his law firm. The Circuit Court of Fairfax County, Virginia entered an appropriate order dismissing the meritless claims. The record presented does not support any of spurious claims raised by Rodriguez on this appeal.

Privileges and Immunities

Rodriguez incorrectly concludes that his governance by the rules of the Virginia State Bar somehow gives right to causes of action and jurisdiction for those causes of action in Virginia. As an attorney licensed in the Commonwealth of Virginia, Rodriguez is subject to discipline by the Virginia State Bar. The fact that Rodriguez also engages in the practice of law in a foreign nation does not thereby establish jurisdiction in Virginia over any civil disputes Rodriguez may have with his clients. Rodriguez has not been deprived of any privileges or immunities. Rodriguez is free to pursue his civil disputes against his former client in an appropriate jurisdiction and forum. He has opted not to file his claims in an appropriate court. Instead, he has pursued multiple spurious appeals including the present petition to this Court.

Due Process

Rodriguez argues that he has been deprived of a property right without due process. The fact is Rodriguez has not been deprived of a property right and Rodriguez has availed himself of due process in that regard. Rodriguez brought his claims in federal court in an incorrect jurisdiction. He appealed that ruling through the Court of Appeals for the Fourth Circuit up to this Court which denied a writ of certiorari. He re-filed essentially the same claims again in federal court which again ruled that jurisdiction was not appropriate in Virginia. He appealed that ruling through the Court of Appeals for the Fourth Circuit up

to this Court which denied a writ of certiorari. He then filed essentially the same claims in a Virginia state court which sustained a demurrer to the claims allowing leave to amend. Rodriguez amended the claims but still failed to state a claim against Pledger and his law firm. The claims were dismissed with prejudice. The Supreme Court of Virginia then denied Rodriguez' petition for appeal.

Rodriguez has not been deprived of a property right. He has availed himself of due process but has yet to file his claims in an appropriate jurisdiction and forum. He is free to pursue his claims and protect his claimed property right. For reasons known only to Rodriguez, he refuses to file his claims in an appropriate jurisdiction. Any loss of a property right interest is directly linked to his refusal to file his claims in an appropriate court.

Equal Protection

As with his other arguments, Rodriguez incorrectly concludes that he has been deprived of equal protection under the laws. There was nothing arbitrary, capricious or discriminatory about any of the rulings of the state courts in this case. Rodriguez brought his claims in federal court in an incorrect jurisdiction. He appealed that ruling through the Court of Appeals for the Fourth Circuit up to this Court which denied a writ of certiorari. He re-filed essentially the same claims again in federal court which again ruled that jurisdiction was not appropriate in Virginia. He appealed that ruling through the Court of Appeals for the Fourth Circuit up to this Court which

denied a writ of certiorari. He then filed essentially the same claims in a Virginia state court which sustained a demurrer to the claims allowing leave to amend. Rodriguez amended the claims but still failed to state a claim against Pledger and his law firm. The claims were dismissed with prejudice. The Supreme Court of Virginia denied Rodriguez' petition for appeal.

Rodriguez has refused to file his claims in an appropriate jurisdiction. Rodriguez has added defendants making spurious claims as to their conduct. Rodriguez' claims have been appropriately dismissed as is discussed in the prior section. Rodriguez may file in an appropriate jurisdiction but has, thus far, elected not to do so. He has not been denied equal protection of the laws.

CONCLUSION

WHEREFORE, for the foregoing reasons, R Harrison Pledger and Pledger & Feord, P.L.C. respectfully request that the Court DENY the Petition for Writ of Certiorari.

R. HARRISON PLEDGER AND
PLEDGER & FEORD, P.L.C.

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VIRGINIA:

In the Supreme Court of Virginia held at the Supreme Court Building in the City of Richmond on Friday *the* 5th *day of* November, 2004.

Isidoro Rodriguez, Esq., Appellant,

against Record No. 040 941
Circuit Court No. L215327

Guy Vanderjagt, Esq., et al., Appellees.

[Entered: November 5, 2004]

From the Circuit Court of Fairfax County

On October 5, 2004 came Isidoro Rodriguez, Esquire and filed a motion to defer issuance of the mandate in this case.

Upon consideration whereof, the Court denies the motion.

A Copy,

Teste: /s/
Clerk

VIRGINIA:

In the Supreme Court of Virginia held at the Supreme Court Building in the City of Richmond on Friday *the* 13th *day of* August, 2004.

Isidoro Rodriguez, Esq., Appellant,

against Record No. 040941
Circuit Court No. L215327

Guy Vanderjagt, Esq., et al., Appellees.

[Entered: August 13, 2004]

From the Circuit Court of Fairfax County

Upon review of the record in this case and consideration of the argument submitted in support of and in opposition to the granting of an appeal, the Court is of opinion there is no reversible error in the judgment complained of. Accordingly, the Court refuses the petition for appeal.

A Copy,

Teste:

Patricia H, Krueger, Clerk

By: /s/
Deputy Clerk

VIRGINIA:
IN THE CIRCUIT COURT OF FAIRFAX COUNTY

Isidoro Rodriguez, Esq.,
Plaintiff/Complaint,

v. Law No. 215327

Guy Vander Jagt, et al.,
Defendant/Respondent.

ORDER

This case came to be heard on the 23rd day of January, 2004, on the Defendants' motion to Strike, Demurrer and Sanctions filed by Pledger and by Vander Jagt.

Upon the matters presented to the Court at the Hearing it is, ADJUDGED, ORDERED, AND DECREED as follows: Pledger's motion to Strike and Motion for Sanctions is denied and Vander Jagt's motion to strike and Motion for Sanctions is Denied. Pledger's Demurrer is Sustained and all claims against Pledger individually and Pledger & Feord are dismissed with prejudice. Vander Jagt's Demurrer is sustained and all claims against Vander Jagt are dismissed with prejudice.

Entered, this 23rd day of January, 2004.

/s/
Robert W. Wooldridge, Circuit County Judge

Objections to dismissal of
Vander Jagt and Pledger.
Objection to dismissal with prejudice.

/s/
Isidoro Rodriguez
Counsel for Plaintiff

/s/
Counsel for
Defendant Vander Jagt

/s/
Counsel for
Defendant Pledger

VIRGINIA:

In the Supreme Court of Virginia held at the Supreme Court Building in the City of Richmond on Friday *the* 1st *day of* October, 2004.

Isidoro Rodriguez, Esq., Appellant,

against Record No. 040941
Circuit Court No. L215327

Guy Vanderjagt, Esq., et al., Appellees.

[Entered: October 1, 2004]

Upon a Petition for Rehearing

On consideration of the petition of the appellant to set aside the judgment rendered herein on the 13th day of August, 2004 and grant a rehearing thereof, the prayer of the said petition is denied.

A Copy,

Teste: /s/
Clerk

Supreme Court of the United States

Isidoro RODRIGUEZ, petitioner,

v.

HFP, INC., et al.

No. 03-971
March 8, 2004.

[Entered: March 8, 2004]

Case below, 77 Fed. Appx. 663.

Petition for writ of certiorari to the United States Court of Appeals for the Fourth Circuit denied.

U.S., 2004

Rodriguez v. HFP, Inc.
124 S. Ct. 1603, 158 L. Ed. 2d 245, 72 USLW 3452, 72 USLW 3563, 72 USLW 3566

UNPUBLISHED

United States Court of Appeals,
Fourth Circuit.

Isidoro RODRIGUEZ,
Plaintiff-Appellant,

v.

HFP INCORPORATED, General Partner; Iota Partners; Edris E. Harbeston; Jack Harbeston; Jerome Barron,
Defendants-Appellees,

and

Armada Company, General Partner; Sea Search Armada; Doe Entities 1-6; Murdock & Company; Dave Larocque; Don Middlebrook; Ed Carpenter; Danilo Devis Pereira; John Does, 1-10, Defendants.

No. 03-1084.

Submitted Sept. 8, 2003.
Decided Oct. 10, 2003,
[Entered: October 10, 2003]

Appeal from the United States District Court for the Eastern District of Virginia, at Alexandria. Gerald Bruce Lee, District Judge. (CA-02-1523-A).

Isidoro Rodriguez, Law Offices of Rodriguez & Sibley, Alexandria, Virginia, for Appellant. R. Harrison

Pledger, Jr., Pledger & Feord, P.L.C., McLean, Virginia, for Appellees.

Before LUTTIG, MOTZ, and KING, Circuit Judges.

Affirmed by unpublished PER CURIAM opinion.

PER CURIAM.

Isidoro Rodriguez appeals the district court order dismissing his complaint for lack of personal jurisdiction. We review de novo the district court's legal conclusions concerning personal jurisdiction. To the extent that the district court's conclusions are based on findings of fact, however, such findings should not be disturbed unless clearly erroneous. Mylan Lab., Inc. v. Akzo, N.V. , 2 F.3d 56, 60 (4th Cir. 1993). Rodriguez bears the burden of showing by a preponderance of the evidence that jurisdiction existed. In re Celotex Corp., 124 F.3d 619, 628 (4th Cir. 1997). We have reviewed the record and the district court's findings and legal conclusions and find no error. Accordingly, we affirm. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court, and argument would not aid the decisional process.

AFFIRMED.

C.A.4 (Va.), 2003.
Rodrigues v. HFP Inc.
77 Fed. App. 663, 2003 WL 22321038 (4th Cir. (Va.))

Supreme Court of the United States

Isidoro RODRIGUEZ, petitioner,

v.

Jack HARBESTON, et al.

No. 01-1549
June 17, 2002.

[Entered: June 17, 2002]

Case below, 22 Fed. Appx. 202.

Petition for writ of certiorari to the United States Court of Appeals for the Fourth Circuit denied.

U.S., 2002

Rodriguez v. Harbeston
536 U.S. 924, 122 S. Ct. 2591, 153 L. Ed. 2d 780, 70 USLW 3669, 70 USLW 3768, 70 USLW 3774

UNPUBLISHED

United States Court of Appeals,
Fourth Circuit.

ISIDORO RODRIGUEZ, Esq.,
Plaintiff - Appellant,

v.

JACK HARBESTON; Sea Search Armada; Armada Company; Iota Partners; Danilo Devis Pereira,
Defendants - Appellees.

No. 01-1884.

Submitted Nov. 9, 2001.
Decided Nov. 28, 2001.
[Entered: November 28, 2001]

Appeal from the United States District Court for the Eastern District of Virginia, at Alexandria. Gerald Bruce Lee, District Judge. (CA-00-1523-A)

Isidoro Rodriguez, Appellant Pro Se. R. Harrison Pledger, Jr., Bernard G. Feord, Jr., PLEDGER & FEORD, P.L.C., McLean, Virginia, for Appellees.

Before LUTTIG, MOTZ, and KING, Circuit Judges.

Affirmed by unpublished per curiam opinion.

PER CURIAM.

Isidoro Rodriguez appeals the district court orders dismissing his complaint for lack of personal jurisdiction. We review de novo the district court's legal conclusions concerning personal jurisdiction. To the extent that the district court's conclusions are based on findings of fact, however, such findings should not be disturbed unless clearly erroneous. Mylan Lab., Inc. v. Akzo, N.V. , 2 F.3d 56, 60 (4th Cir. 1993) . Rodriguez bears the burden of showing by a preponderance of the evidence that jurisdiction existed. In re Celotex Corp., 124 F.3d 619, 628 (4th Cir. 1997).

We have reviewed the record and the district court's findings and legal conclusions and find no error. Accordingly, we affirm on the reasoning of the district court. See Rodriguez v. Harbeston, No. CA-00-1523-A (E.D. Va. Dec. 21, 2000 & June 5, 2001). We deny Rodriguez's motion seeking certification of a question from the Supreme Court of Virginia. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court, and argument would not aid the decisional process.

AFFIRMED

C.A.4 (Va.), 2001.
Rodriguez v. Harbeston
22 Fed. Appx. 202, 2001 WL 1509562 (4th Cir. (Va.))